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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)**

IN RE: VIAGRA (SILDENAFIL
CITRATE) AND CIALIS (TADALAFIL)
PRODUCTS LIABILITY LITIGATION

Case No. 16-md-02691-RS

MDL No. 2691

This Document Relates to:

ALL ACTIONS

**[JOINT ~~PROPOSED~~] PRETRIAL ORDER
NO. 16: SERVICE OF FACT SHEETS,
RESPONSIVE DOCUMENTS AND
AUTHORIZATIONS**

**SERVICE OF FACT SHEETS, RESPONSIVE DOCUMENTS AND AUTHORIZATIONS
THROUGH MDL CENTRALITY**

Plaintiffs and Defendants, Pfizer Inc. and Eli Lilly & Co., have agreed to accept online submission and service of Plaintiff Fact Sheets (“PFS”) and Defendant Fact Sheets (“DFS”), which are collectively described herein as Fact Sheets, and related documents in actions filed in or transferred to MDL No. 2691 in the interest of efficiency and judicial economy,

IT IS HEREBY ORDERED that:

1. *Manner of Completion and Service of Fact Sheets and Authorization Forms.* Unless it is not reasonably practical due to international data privacy laws and requirements Plaintiffs and Defendants shall use the online MDL Centrality System designed and provided by BrownGreer PLC and accessible at www.mdlcentrality.com/mdl2691 to complete and serve the PFS, DFS, responsive documents and authorizations discovery, as follows:

(a) Each Plaintiff required to submit a PFS, shall, by counsel or as *pro se*, establish a secure online portal in the MDL Centrality online system and obtain authorized usernames and secure login passwords to permit use of MDL Centrality by such counsel or Plaintiff. Except as set forth herein, Counsel for a Plaintiff or each *pro se* Plaintiff shall be permitted to view, search and download on MDL Centrality only those materials submitted by that Plaintiff and by Defendants relating to that Plaintiff and not materials submitted by or relating to other Plaintiffs unless by express agreement of the parties.

- 1 (b) Defendant(s) shall establish a secure online portal with the MDL Centrality online system
2 and obtain authorized usernames and secure login passwords to permit use of MDL
3 Centrality by Defendants' counsel.
- 4 (c) The Plaintiffs' Liaison Counsel and other designees appointed by the Plaintiffs' Co-Lead
5 Counsel shall have access to and be able to view, search and download all materials
6 submitted by all Plaintiffs and by all Defendants.
- 7 (d) Unless it is not reasonably practical due to international data privacy laws and requirements,
8 in which case Defendants will produce by another medium, each Plaintiff and Defendant
9 shall use the MDL Centrality System to obtain, complete, upload or produce data and serve
10 the appropriate Fact Sheet online (including the upload of PDFs or other electronic images,
11 photographs, videos, or any records required in the Fact Sheets and electronic copies of
12 Declarations or Certifications signed in hard copy).
- 13 (e) Each Plaintiff shall use the MDL Centrality System to obtain, complete and serve online the
14 Plaintiff's Records Authorizations. Each Plaintiff shall sign each of the required Records
15 Authorizations with an original signature, which will then be scanned, uploaded, and served
16 through MDL Centrality.
- 17 (f) Service of a completed PFS, Responsive Documents, Records Authorizations, and DFS shall
18 be deemed to occur when the submitting party has performed each of the steps required by
19 the MDL Centrality System to execute the online submission of the materials and the
20 submitting party has received a dialogue box confirming that the materials have been
21 successfully submitted.
- 22 (g) If a party must amend a previously served Fact Sheet, all subsequent versions must be
23 named accordingly ("First Amended Fact Sheet," "Second Amended Fact Sheet," etc.) and
24 all iterations of a Party's Fact Sheet must remain available and accessible to all parties to a
25 case through trial, appeal (if any), or other resolution of the litigation.
- 26 (h) The Court may establish a secure portal with the MDL Centrality online system and obtain
27 an authorized username and secure login password to permit use of MDL Centrality by the
28 Court.
- 29 (i) The parties may choose to use the MDL Centrality system to send notice of deficiencies in
30 Fact Sheets or related documents. Deficiency notices sent via email through MDL
31 Centrality shall satisfy the service requirements for deficiency notices set forth in paragraph
32 6 of Pretrial Order 15.

33 **2. Authorizations.** By using MDL Centrality, each Plaintiff authorizes the disclosure of
34 his or her medical records and other health information submitted as part of the PFS or DFS to
35 BrownGreer PLC as the Administrator of the MDL Centrality System, the Court, Plaintiffs'

1 Liaison Counsel, Defendants, Defendants' counsel, and the authorized agents, representatives
2 and experts of the foregoing, for purposes of this litigation.

3 **3. No Impact on Privileges or Work Product Protection.** The use of MDL Centrality by
4 any party shall not alter, waive or affect any attorney-client privilege or work-product doctrine
5 protection otherwise available that would otherwise apply to a document in the absence of the
6 use of MDL Centrality. Any notations placed on materials, comments entered or documents
7 stored, uploaded to or produced through MDL Centrality by a user shall be considered to be the
8 work product of such user unless and until the material is served on or purposefully disclosed to
9 the opposing party through the use of MDL Centrality or otherwise. Pursuant to Rule 502(d) of
10 the Federal Rules of Evidence, this Order applies to any other federal or state proceeding with
11 respect to privilege and work-product doctrine protection.
12

13 **4. No Impact on the Scope of Discovery.** Nothing in the Fact Sheets, Responsive
14 Documents, Records Authorizations or any use or action in MDL Centrality shall be deemed to
15 limit the scope of inquiry at depositions and admissibility of evidence at trial. The scope of
16 inquiry at depositions shall remain governed by the Federal Rules of Civil Procedure and the
17 admissibility of information shall be governed by the Federal Rules of Evidence and other
18 applicable law. No objections are waived as a result of any response in a Fact Sheet or the
19 production of any documents in conjunction with a Fact Sheet.
20

21 **SO ORDERED.**

22 Dated: 12/12/18



23
24 THE HONORABLE RICHARD SEEBORG
25 UNITED STATES DISTRICT JUDGE
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